

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA | : | |
| - v. - | : | CONSENT PRELIMINARY ORDER |
| | : | OF FORFEITURE/ |
| | : | <u>MONEY JUDGMENT</u> |
| NEFY MENDEZ, | : | |
| | : | 20 Cr. 153 (JSR) |
| Defendant. | : | |
| ----- | x | |

WHEREAS, on or about February 21, 2020, NEFY MENDEZ (the “Defendant”), among others, was charged in a three-count Indictment, 20 Cr. 153 (JSR) (the “Indictment”), with conspiracy to commit Hobbs Act Robbery, in violation of Title 18, United States Code, Section 1951 (Count One); Hobbs Act Robbery, in violation of Title 18, United States Code, Section 1951 and 2 (Count Two); and firearms use, carrying and brandishing, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii) and 2 (Count Three);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Two, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, on or about December 3, 2020, the Defendant pled guilty to Count Two of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count Two of the Indictment and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28

United States Code, Section 2461(c): a sum of money equal to \$2,800.00 in United States currency, representing proceeds traceable to the commission of the offense charged in Count Two of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$2,800 in United States currency representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment that the Defendant personally obtained for which the Defendant is jointly and severally liable with co-Defendants Michael Smith, Devante Manning, and Kyshawn Robinson, to the extent forfeiture money judgments are entered against Michael Smith, Devante Manning, and Kyshawn Robinson; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count Two of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, Acting United States Attorney, Assistant United States Attorney, Kevin Mead of counsel, and the Defendant, NEFY MENDEZ, and his counsel, Martin Cohen, Esq., that:

1. As a result of the offense charged in Count Two of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$2,800 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment that the Defendant personally obtained, shall be entered against the Defendant for which the Defendant is jointly and severally liable with co-Defendants Michael Smith, Devante Manning, and Kyshawn Robinson to the extent forfeiture money judgments are entered against Michael Smith, Devante Manning, and Kyshawn Robinson.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, NEFY MENDEZ, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

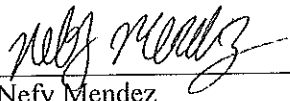
AGREED AND CONSENTED TO:

AUDREY STRAUSS
Acting United States Attorney for the
Southern District of New York


By: /s/ Kevin Mead
Kevin Mead
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2211

12/1/2020
DATE

NEFY MENDEZ

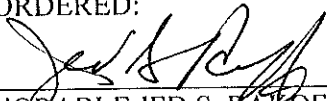
By: 
Nefy Mendez

12-3-20
DATE

By: 
Martin Cohen, Esq.
Attorney for Defendant
52 Duane Street, 10th Floor
New York, New York 10007

12-3-20
DATE

SO ORDERED:


HONORABLE JED S. RAKOFF
UNITED STATES DISTRICT JUDGE

12/3/20
DATE